

Article - Public Safety

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§3–506.1.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Administrator” means the person conducting an identification procedure.
- (3) “Blind” means the administrator does not know the identity of the suspect.
- (4) “Blinded” means the administrator may know who the suspect is but does not know which lineup member is being viewed by the eyewitness.
- (5) “Eyewitness” means a person who observes another person at or near the scene of an offense.
- (6) “Filler” means a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure.
- (7) “Folder shuffle method” means a system for conducting a photo lineup that:
 - (i) complies with the requirements of this section; and
 - (ii) is conducted by placing photographs in folders, randomly numbering the folders, shuffling the folders, and then presenting the folders sequentially so that the administrator cannot see or track which photograph is being presented to the eyewitness until after the procedure is completed.
- (8) “Identification procedure” means a procedure in which a live lineup is conducted or an array of photographs, including a photograph of a suspect and additional photographs of other persons not suspected of the offense, is displayed to an eyewitness in hard copy form or by computer for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator.
- (9) “Identification statement” means a documented statement that is sought by the administrator when an identification is made:
 - (i) from the eyewitness;

(ii) in the own words of the eyewitness, describing the eyewitness's confidence level that the person identified is the perpetrator of the crime;

(iii) given at the time of the viewing by the eyewitness during the identification procedure; and

(iv) given before the eyewitness is given feedback.

(10) "Live lineup" means a procedure in which a perpetrator is placed among a group of other persons whose general appearance resembles the perpetrator.

(11) "Perpetrator" means a person who committed an offense.

(12) "Suspect" means a person who is suspected of committing an offense.

(b) (1) An identification procedure shall be conducted by a blind or blinded administrator.

(2) An administrator may be blinded through the use of:

(i) an automated computer program that prevents the administrator from seeing which photos the eyewitness is viewing until after the identification procedure is completed; or

(ii) the folder shuffle method.

(3) Before an identification procedure is conducted, an eyewitness shall be instructed, without other eyewitnesses present, that the perpetrator may or may not be among the persons in the identification procedure.

(4) When an identification is made in a live lineup or photo array, the administrator shall document in writing all identification statements made by the eyewitness.

(c) In an identification procedure:

(1) each filler shall resemble the description of the perpetrator given by the eyewitness in significant physical features, including any unique or unusual features;

(2) at least five fillers, in addition to the suspect, shall be included when an array of photographs is displayed to an eyewitness; and

(3) at least four fillers, in addition to the suspect, shall be included in a live lineup.

(d) If an eyewitness has previously participated in an identification procedure in connection with the identification of another person suspected of involvement in the offense, the fillers in the identification procedure shall be different from the fillers used in any prior identification procedure.

(e) If there are multiple eyewitnesses:

(1) the identification procedure shall be conducted separately for each eyewitness;

(2) the suspect shall be placed in a different position for each identification procedure conducted for each eyewitness; and

(3) the eyewitnesses may not be allowed to communicate with each other until all identification procedures have been completed.

(f) (1) Except as provided in paragraph (2) of this subsection, the administrator shall make a written record of the identification procedure that includes the following information:

(i) all identification and nonidentification results obtained during the identification procedures;

(ii) the signed identification statement of the eyewitness;

(iii) the names of all persons present at the identification procedure;

(iv) the date and time of the identification procedure;

(v) any eyewitness identification of a filler; and

(vi) all photographs used in the identification procedure.

(2) If a video or audio record of the identification procedure captures all of the information in paragraph (1) of this subsection, a written record is not required.

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